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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,183	07/03/2003	James K. Hartwell	P773	5264

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EXAMINER

KRAMER, DEAN J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/612,183

**Applicant(s)**

HARTWELL, JAMES K.

**Examiner**

Dean J. Kramer

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/3/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 2-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "the portion of the primary section opposite the secondary section" (claim 2), "the device" (claims 13-18), or "The handle device" (claim 20).

The use of the term "approximate" in claim 3 does not make grammatical sense.

Claim 4 should end in a period rather than a comma.

In the last line of claim 5, the term "fingres" should be changed to --fingers--.

Claims 7, 9-12, and 19 are confusing in that it is unclear as to which "axis" of the compressed tank (i.e. its horizontal axis of symmetry, vertical axis) the phrase "the axis of the compressed gas tank" is referring.

Claim 8 appears to be missing some text and is an incomplete sentence.

Claims 15 and 16 are identical.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12 and 19, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent # 1,564,018.

French Patent # 1,564,018 shows an embodiment of a tank carrier in Figure 3 comprising a generally linear primary section (2) and an arcuate secondary section (1) adapted to engage a portion (4) of a valve assembly. Regarding claims 7-12, the valve assembly extends generally perpendicular to a horizontal axis of the tank.

4. Claims 1-3, 7-9, 13-17, and 19, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gagnon.

Gagnon shows a carrier comprising an arcuate engagement portion (20) and a linear primary portion (16) wherein the engagement portion (20) is *capable* of engaging and supporting a horizontally or vertically extending valve on a standard compressed gas tank.

5. Claims 1-19, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Smith.

Smith shows a generally rigid, molded plastic lifting device comprising a linear hand engaging section (4) and a neck engaging portion (3). It is pointed out that the arcuate portion (3) is inherently capable of engaging the valve assembly of a standard compressed gas tank as broadly as recited in the above claims.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 20, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over either Smith or Gagnon in view of Kosteniuk.

Kosteniuk shows a hand-held carrier having a generally I-shaped cross-section (see Figs 6 and 7) creating a high bending resistance for better handling of heavy items.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form either the Smith or Gagnon carrier with an I-shaped cross-section similar to that shown in the Kosteniuk patent in order to strengthen the carrier and provide a higher bending resistance.

#### ***Oath/Declaration***

8. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not identify the citizenship of each inventor.

#### ***Conclusion***


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The McQuade et al. patent shows a carrier having an I-shaped cross-section.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dean J. Kramer  
Primary Examiner  
Art Unit 3652

djk  
6/15/04